

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**ASSOCIATED RECOVERY, LLC,**

Plaintiff,

v.

**JOHN DOES 1-44,**

Defendants *in rem*.

**No. 3:16-CV-1025-N-BN**

*In re:*

744.COM	KXW.COM	UHW.COM	YJX.COM
028.COM	LNМ.COM	VCZ.COM	YLZ.COM
3DCAMERA.COM	LUOHE.COM	VGJ.COM	YQP.COM
FNY.COM	MEQ.COM	WYD.COM	YQT.COM
FX2.COM	OCU.COM	XAQ.COM	YRN.COM
FXF.COM	PIXIE.COM	XFF.COM	YTE.COM
JTZ.COM	QMH.COM	XSG.COM	YYG.COM
KGJ.COM	RUTEN.COM	YCX.COM	ZDP.COM
KMQ.COM	SDU.COM	YEY.COM	ZHD.COM
KOU.COM	SQG.COM	YGX.COM	ZULIN.COM
KXQ.COM	TAOLV.COM	YJR.COM	ZZM.COM

**DEFENDANTS' RENEWED RULE 12(b) MOTION TO DISMISS**

Through the undersigned counsel, Defendants Jinwu Chen, Xumin Huang, Feng Lu, Yuhua Jiang, Zhilong Chu, Yaoguang Zhu, Yanbin Lin, Yu Lin, Xiaofeng Lin, Fengjing Zheng, Xiaoying Li, Liwei Liu, Dongdong Xu, Teng Wang, Yang Gao, Xiaohang Shen, and Feng Yan, on behalf of their Accused Domain Names 028.com, fny.com, kgj.com, kmq.com, kxq.com, kxw.com, lnm.com, luohe.com, meq.com, pixie.com, qmh.com, sqg.com, vcz.com, wyd.com, xaq.com, xff.com, xsg.com, ycx.com, ygx.com, yjr.com, yqp.com, yqt.com, yrn.com, yyg.com,

zdp.com, zhd.com, zulin.com, and zzm.com, hereby move the Court to dismiss this action under Federal Rule of Civil Procedure 12(b).

This is a renewed motion, updated to reflect new facts and supplemental authority from a related case, and different controlling case law after transfer. The Eastern District of Virginia transferred the case to this Court after granting Certain Defendants' Motion to Dismiss Complaint for Failure to Join a Necessary Party, or in the Alternative, to Transfer Venue (Dkt. 31, 32). The Eastern District's Order (Dkt. 40)—and its reasons stated in open court during the April 15, 2016 hearing—left untouched, and undecided, the Rule 12(b) portion of Defendants' Motion. Thus, that portion of Defendants' Motion remains available for judicial determination. *See Astec Am., Inc. v. Power-One, Inc.*, No. 6:07-cv-464, 2008 WL 1734833, \*2 (E.D. Tex. Apr. 11, 2008) (renewed Rule 12 motion decided by transferee court); *see also Abusadeh v. Chertoff*, No. 06-cv-2014, 2007 WL 2111036, \*1 (D.D.C. Jul. 23, 2007) (granting defendants' motion to transfer venue and denying motion to dismiss without prejudice "so that Defendants may refile it, if appropriate, upon transfer"). In addition, a recent ruling in a related case, *Baron v. Vogel*, No. 3:15-cv-232-L (N.D. Tex.) (Lindsay, J.), substantively altered, and expanded, the bases for dismissal of this case under Rule 12(b). The arguments provided in the concurrently filed Memorandum In Support of Defendants' Renewed Rule 12(b) Motion reflect that expansion.

First, Plaintiff fails to state a claim upon which relief can be granted, so the Court should dismiss this action under Rule 12(b)(6). Second, Plaintiff lacks standing to bring this suit, so the Court should dismiss this action under Rule 12(b)(1). Finally, Plaintiff failed to join necessary parties, so the Court should dismiss this action under Rule 12(b)(7).

Dated: April 29, 2016

Respectfully submitted

By: /s/ Steven M. Geiszler

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 29, 2016 I caused the foregoing document to be served on counsel of record via the Court's CM/ECF system.

/s/ Steven M. Geiszler

Steven M. Geiszler